UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/581,459	07/27/2000	STEPHAN SCHMITZ	10191/1452	7359

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EXAMINER
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ART UNIT	PAPER NUMBER
2134	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
 Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *31 October 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *10, 11 and 14-18* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *10, 11 and 14-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☒ All   b)☐ Some * c)☐ None of:

       1.☒ Certified copies of the priority documents have been received.

       2.☐ Certified copies of the priority documents have been received in Application No. _____.

       3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2.   Claims 10, 11, and 14-18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation of "during normal operation" was not found in the original specification. Applicant did not supply any location that the new amendment is disclosed.

3.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4.   Claims 10, 11, and 14-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5.   The term "normal" in claim 10 is a relative term which renders the claim indefinite. The term "normal" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in

section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the

manner in which the invention was made.

7.   Claims 10, 11, and 14-18 are rejected under 35 U.S.C. 103(a) as being

anticipated by Abraham et al., US Patent number 5,745,576 in view of Kousa, US

Patent number 4,797,672.

With regard to claim 10, Abraham discloses a base station (controller) including a

computer (column 12 lines 13-47) that transmits a prompt (column 9 lines 56-61,

column 10 lines 56-59), and a remote control device (terminal, column 1 lines 13-15)

which stores the prompt (column 9 lines 21-24, column 10 lines 60-62), and transmits a

code word as a reply (column 9 lines 24-30, column 10 lines 63-64) that is partially a

function of the prompt (column 9 lines 24-26, column 10 lines 64-65), the base station

receives the reply and compares it with the required reply (column 10 lines 66-67), and

grants access accordingly (column 11 lines 1-3). Abraham does not disclose that an

initial stored prompt from a successful prompt/reply cycle is used to encrypt the

authorization information. Kousa discloses that often an encrypted exchange will be

preceded by a key exchange to create a session key to use in further authentications

(column 2 lines 3-10). It is further added that the examiner takes official notice that key

exchange to begin a session is well known in the art. It would have been obvious for

one of ordinary skill in the art to use key exchange preceding Abraham to prevent eavesdropping. With regard to the base computer erasing the session key after a number of failed attempts, Abraham does not mention abandoning the process after a specific number of failed attempts. The examiner takes official notice that it is well known in the art to check failed attempts to connect, and to abandon an access process after a predetermined number of failures. It would have been obvious for one of ordinary skill in the art to use this check in Abraham's system to avoid eternal loops, and to increase security against hacking. Support for this can be seen in See et al., USPN 6,070,243. See discloses terminating a session with a user after a predetermined number of failed login attempts (column 11 lines 15-38). Further Schneier discloses that session keys are erased when a session is ended (page 180, paragraph beginning "some").

With regard to claim 11, Abraham discloses the response is a function of the terminal's serial number (column 9 lines 24-28).

With regard to claim 12, Abraham discloses the challenge is stored in the base system (column 9 lines 56-59).

With regard to claim 14, Abraham discloses the reply includes a transaction count (column 9 lines 24-26), which is tracked (column 10 lines 22-24).

With regard to claim 15, Abraham discloses the count is changed (column 31-35).

With regard to claim 16, Abraham discloses the counter code has been previously transmitted to the base station (column 9 lines 42-46).

With regard to claim 17, Abraham discloses the counter code is encrypted (column 9 lines 24-26).

With regard to claim 18, Abraham discloses the system of claim 10, as outlined above, but does not mention wireless communication or frequencies. The examiner takes official notice that it is well known in the art to have different wireless device working on different frequencies. It would have been obvious for one of ordinary skill in the art to us Abraham's system in a wireless environment with different frequencies to avoid interference and allow mobility.

Response to Arguments

8.   Applicant's arguments filed 31 October 2007 have been fully considered but they are not persuasive.

With regard to applicant's argument that Abraham only discusses the initialization procedure, and not normal system operation, the examiner points out that initialization is a normal system operation.

With regard to applicant's argument that there is no motivation to further encrypt communication in Abraham since the key is secret, The examiner points out that communicating using the same key repetitively leaves the key more open to an eavesdropper to reverse engineer. Thus there is motivation to use session keys that are different and temporary to protect the key and all other information.

Conclusion

9.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

10.   Any inquiry concerning this communication or earlier communications from the

.examiner should be directed to Jacob Lipman whose telephone number is 571-272-

3837. The examiner can normally be reached on M-Fr.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Kambiz Zand can be reached on 571-272-3811. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JL   JL

KAMBIZ ZAND
SUPERVISORY PATENT EXAMINER